

REMARKS

Forty-two claims were originally filed in the present Application, and claims 43-55 were subsequently added. Claims 1-55 currently stand rejected. Claims 1, 21, and 41 are amended herein. Reconsideration of the Application in view of the foregoing amendments and following remarks is respectfully requested.

Notice Of Draftsman's Patent Drawing Review

In paragraph 2 of the initial Office Action mailed on April 23, 2002, the Examiner requested the Applicants to "note PTO-948 concerning notice of draftsman's patent drawing review." The Examiner further stated that "correction of the noted defect can be deferred until the application is allowed by the examiner." However, as mentioned four different times in the Applicants' prior Responses to Office Actions, Applicants have never received a PTO-948 or any other document regarding defects in the drawings. Applicants therefore respectfully again request the Examiner to provide such documents, so that Applicants may respond in an appropriate manner. In the alternative, Applicants request the Examiner to explicitly indicate that no corrections to the drawings are necessary.

35 U.S.C. § 102(a)

In paragraph 3 of the Office Action, the Examiner rejects claims 1, 21, and 41-43 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 5,838,968 to Culbert (hereafter Culbert). The Applicants respectfully traverse these rejections for at least the following reasons.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Culbert fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner’s rejection of independent claims 1, 21, and 41, the Applicants respond to the Examiner’s §102 rejection as if applied to amended independent claims 1, 21, and 41, which have been amended to recite a “*said requested process executing with optimal performance in a non-degraded manner when authorized by said allocation manager, said optimal performance being due to guaranteed pre-allocated resources provided by said electronic device*” which are limitations that are not taught or suggested either by the cited references, or by the Examiner’s citations thereto. Applicants submit that the foregoing amendments are supported by claim 43, as filed with a Request for Continued Examination in the present Application, and therefore do not necessitate a new search.

Culbert essentially teaches global resource allocation over a plurality of system tasks by referencing a “task resource utilization vector” to selectively reallocate resources for existing tasks to thereby provide additional resources for

new tasks” (see column 3, line 16 through column 4, line 29). However, “[t]he act of retrieving resources from an existing task is called degradation.

Degradation occurs when a task is asked to give up some of its resources and move to a lower run level” (column 9, lines 19-23).

In contrast, Applicants teach and claim a “resource characterization that includes one or more resource listings and one or more corresponding resource usage values that are required for an *“optimal performance in a non-degraded manner”* of said requested process.” Furthermore, Applicants teach and claim that *“said requested process executes with optimal performance due to guaranteed pre-allocated resources.”* For at least the foregoing reasons, Applicants submit that Culbert teaches away from Applicants’ invention.

The foregoing arguments and comments are incorporated here by reference with regard to independent claim 43 which includes many of the same or similar limitations as independent claims 1, 21, and 41. Furthermore, with regard to independent claim 43, Applicants submit that Culbert nowhere mentions or teaches guaranteeing resources for “isochronous processes”, as claimed by Applicants.

With regard to claim 42, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in the other independent claims which are discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 42. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 42, should be construed in light of the Specification. More specifically, means-plus-

function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof.

Applicants respectfully submit that, in light of the substantial differences between the teachings of the cited references and Applicants' invention as disclosed in the Specification, claim 42 is therefore not anticipated or made obvious by the cited references. Applicants specifically direct the Examiner's attention to Applicants' discussion of FIGS. 5-7 (Specification, page 10, line 1 through page 14, line 2) which describes in detail the Applicants' claimed "means for referencing" and "means for handling".

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Culbert to identically teach or suggest the claimed invention, Applicants respectfully request reconsideration and allowance of independent claims 1, 21, 43-45, so that these claims may issue in a timely manner.

35 U.S.C. § 103

In paragraph 4 of the Office Action, the Examiner rejects claims 2-26, 18-20, 22-36, 38-40, and 44-55 under 35 U.S.C. § 103(a) as being unpatentable over Culbert in view of U.S. Patent No. 6,625,643 to Colby et al. (hereafter Colby) in view of U.S. Patent No. 6,625,643 to Komuro et al. (hereafter Komuro). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicants respectfully traverse the Examiner's assertion that modification of the device of Culbert according to the teachings of Colby and Komuro would produce the claimed invention. Applicants submit that Culbert in combination with Colby and Komuro fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicants also submit that neither Culbert, Colby, nor Komuro contain teachings for combining the cited references to produce the Applicants' claimed invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

Regarding the Examiner's rejection of dependent claims 2-26, 18-20, 22-36, 38-40, and 44-55, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are

not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2-26, 18-20, 22-36, 38-40, and 44-55 so that these claims may issue in a timely manner.

Furthermore, with regard to claims 12, 22, and 46, Applicants submit that the cited references nowhere teach initially setting current available resource values to be “less than one-hundred percent” of total device resources to reserve resources for essential non-isochronous tasks. In addition, with regard to claim 55, Applicants submit that the cited references fail to teach or disclose a networked electronic device with a “resource characterization including one or more network resource requirements for other electronic entities in said electronic network,” as recited in claim 55.

For at least the foregoing reasons, the Applicants submit that claims 2-26, 18-20, 22-36, 38-40, and 44-55 are not unpatentable under 35 U.S.C. § 103 over Culbert in view of Colby and Komuro, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 2-26, 18-20, 22-36, 38-40, and 44-55 under 35 U.S.C. § 103.

Summary

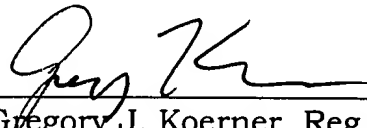
Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §102(a) and 35 U.S.C. §103(a).

Because the cited references, or the Examiner's citations thereto, do not teach the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-16, 18-36, and 38-55 so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicants' undersigned representative at the telephone number provided below.

Respectfully submitted,

Date: 5/10/04

By: _____


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